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FILED
DISTRICT COURT OF GUAM

AUG 25 2006 *mba*

MARY L.M. MORAN
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF GUAM

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
GINGER PEREZ HAMAMOTO,)
)
Defendant.)

CRIMINAL CASE NO. 06-00018

**GOVERNMENT'S RESPONSE TO
DEFENDANT'S OBJECTIONS TO
PRESENTENCE INVESTIGATION
REPORT**

The government adopts the findings of the Presentence Investigation Report ("PSR") and responds as follows to defendant Ginger Perez Hamamoto's objections to the PSR:

A. Substantial Risk of Harm Enhancement

Although defendant Hamamoto pleaded guilty to Misprision of a Felony, the underlying felony is the crime of conspiracy to manufacture methamphetamine hydrochloride which would make the enhancement of USSG § 2D1.1(b)(6)(C) applicable in this case. In her plea agreement the defendant admitted that an illegal scheme of manufacturing and distribution of ice existed in the Guam Reef hotel room and went there with her infant child in order to smoke ice. In her interview with the U.S. Probation Officer, [undisputed portion of ¶ 35 of the PSR], the defendant stated that her boyfriend, Joseph Mesa, would manufacture the substance. For sentencing purposes, the defendant's relevant conduct includes: (1) all acts or omissions that the defendant committed, aided,

1 abetted, counseled, commanded, induced, procured, or willfully caused; and (2) all reasonably
2 foreseeable acts and omissions of others in furtherance of the jointly undertaken criminal activity.
3 USSG § 1B1.3(a)(1)(A) and (B). The defendant's actions in bringing and exposing her infant to the
4 illegal activity in the hotel room in part to satisfy her methamphetamine addiction placed her minor
5 child at substantial risk of harm.

6 A sentencing factor that has an extremely disproportionate effect on sentence must be proved
7 by clear and convincing evidence. United States v. Staten, 450 F.3d 384, 392-394 (9th Cir. 2006).
8 The government intends to call witnesses during the sentencing hearing in support of the contested
9 enhancement.

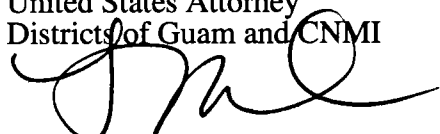
10 B. 18 U.S.C. § 3553(a)

11 One of the factors to be considered under 18 U.S.C. § 3553(a) in imposing a sentence
12 includes a defendant's need for educational or vocation training, medical care, or other correctional
13 treatment in the most effective manner. 18 U.S.C. § 3553(a)(2)(D). The defendant recognizes she
14 has a strong methamphetamine addiction and has failed the on- and off-island drug counseling
15 programs the court and her family has provided to date. The government concurs with the defense
16 that the drug treatment options on Guam for defendant are indeed limited, but recommends instead
17 a period of off-island confinement sufficient to provide the defendant with the necessary drug
18 treatment and other appropriate treatments.

19
20 Dated this 24th day of August 2006.

21 LEONARDO M. RAPADAS
22 United States Attorney
23 Districts of Guam and CNMI

24 By:

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26 MARIVIC P. DAVID
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